

# **EXHIBIT 9**

Message

**From:** Patrick Connor, MD  
**Sent:** 8/22/2010 10:05:34 PM  
**To:** Yates, Anthony [yatesap@upmc.edu]; Elliot Pellman, M.D. [EPellman@ProHEALTHcare.com]  
**Subject:** CONFIDENTIAL

Guys – forwarding you Dan's email and my response so we can all know the issues that concern others.

I would suggest the three of us (PC, TY and EP) file away all responses from team physicians and ATC's regarding this issue and share this information internally. I personally feel like we can ignore the names – just concentrate on the issues raised. We may even want to forward all of the responses – with names deleted to respect confidentiality – to the NFLPS EC at some point to bring them up to speed regarding the issues before we move forward with further discussions / decisions.

Thoughts?

Thank you for maintaining Dan's and others' confidentiality throughout this process.

PC

Patrick M. Connor, MD

Team Physician, Carolina Panthers

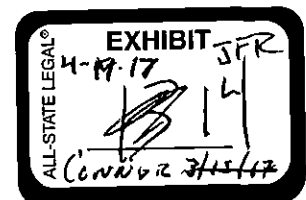
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**From:** Patrick Connor, MD  
**Sent:** Sunday, August 22, 2010 9:58 PM  
**To:** 'Cooper, Daniel M.D.'  
**Cc:** Jim Maurer  
**Subject:** RE: DEA and controlled substances

Dan,

I am overwhelmingly impressed that you were able to send a message of that length via your iPhone. You have talents that go way beyond!!

I feared that once the New Orleans situation occurred last year, followed by the San Diego DEA "sting" operation this off-season, that I'd somehow end up knee-deep in alligators trying to avoid the inevitable fate of being the maligned messenger. I know you realize that Tony's and my efforts have been to be representative to the NFLPS in determining and communicating existing federal DEA laws and what is and isn't legal -- and nothing else. The memo that Tony and I sent out reviews our meeting with the DEA and defines existing DEA statutes and regulations, then suggests a few ideas that have been floated (by the DEA, the NFL League Office, and the NFLPS Executive Committee) to work around these laws without breaking them. We had and have no intention of telling NFL physicians what to do or how to do it -- we just thought it was our responsibility to inform the other NFL team docs of the rules.

Much like posting a speed limit sign, it is the judgment of the person behind the wheel as to how fast he or she drives. The problem has been that we have been driving on a road where no signs have been posted; however, we have been legally responsible for not speeding.

Specifically addressing your points . . .

- One of the many issues regarding any potential league-wide plan to address these issues (including the Stadium NFL Formulary concept that was floated by the DEA representatives themselves) is the cost. There has been discussion that the cost will either be the individual organizations themselves or the League as a whole (which, in essence, is the same thing). If this even happens, it will almost assuredly occur via hiring a 3<sup>rd</sup> party MD at each venue to have medications to dispense or Rx's to write after consultation. It was brought up by both Tony and me at our initial discussion that there is no conceivable way existing team physicians (orthopaedists or internists) can add this to our plate – we are too busy doing what we do that we won't be universally accessible to other teams' medical staffs during their stay in our cities.
- Your point regarding a “documented encounter” is a good one, and one that we discussed at length during our meeting and thereafter. This issue doesn't come under the umbrella of the DEA as it relates more to the practice of medicine (which would be under the umbrella of each State Medical Board) vs the management of controlled substances, thus the DEA representatives wouldn't address it. There is some question as to whether or not it would suffice to have a physician-to-physician consultation and discussion (with appropriate documentation) vs necessitating an actual physician-to-patient (player) encounter. Lots of issues related to this – better to discuss in person at some point.
- No question that prospectively writing prescriptions for coaches and players for their Ambien and/or other controlled medications that are predictably needed is the easiest way to go with this. They can travel with their own prescriptions, take them as directed, and no rules are broken. The issues arise when “urgent care” is needed (as you have outlined).
- We also discussed at our meeting specifically the issue of different DEA agents allowing or disallowing certain practices and how we, as a group, can predict how enforcement will be handled in our regions. Much like the analogy of whether or not one is going to get a speeding ticket if he drives 65 in a 55 mph zone in Dallas vs Charlotte vs Pittsburgh. The federal DEA representatives that we met with had the very strict response that “the law is the law” and that the DEA Office of Diversion Control is working diligently to establish universal and consistent enforcement of existing laws (as one would predict). How this falls out from a practical standpoint is anyone's guess. Again – just being the messenger

One last – and very important – issue. Please understand that this is not specifically a League issue, and the League is not dictating how physicians manage controlled substances. This is a DEA issue. The people at risk here are those of us with DEA registrations. Now – the League has been very involved in the discussions, and will likely do whatever is necessary to help in this process (such as finance costs associated with the NFL Stadium Formulary if this concept floats). However, the NFL is not demanding anything here. This is the federal government.

Your “two cents” are always very valuable. Dan. I appreciate your feedback, and hope you and others realize that Tony and I are simply trying to help work through the process. Please feel free to touch base prn with any further thoughts / ideas. Until then . . . good luck to the Cowboys.

Regards,

PC

Patrick M. Connor, MD

Team Physician, Carolina Panthers

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-----Original Message-----

From: Cooper, Daniel M.D. [mailto:drcooper@WBCarrellClinic.com]

Sent: Sunday, August 22, 2010 4:12 PM

To: Patrick Connor, MD

Cc: Jim Maurer

Subject: DEA and controlled substances

Pat,

If the NFL wants me to be available for consulting and prescribing controlled substances to the players and coached of visiting teams, then I would be happy to consider doing so after we can agree on the terms of such a consulting practice, compensation and

documentation requirements. It should be noted by all that the DEA would also not approve of me simply calling in RXs for players or staff if I have no doctor - patient relationship with them. There would need to be a documented encounter.

At the present time, I have a consulting agreement with the Dallas Cowboys but not with the NFL or other teams.

Until that occurs, players and coaches will probably need to carry their own prescription meds or go to a local doc in the box facility to get an Rx for controlled substances.

Interestingly, I have had 3 separate discussions with the DEA agent in Dallas. He has not objected to the way we have been doing it and knows that we transport the meds across state lines and dispense them in paper envelopes. We don't use SportPharm. We do have a small stock of less than 20 pills of each med in the black bag and it stays locked in a safe. Almost all RXs are filled and labelled by a Pharmacy in the player's name. The black bag medicines are used for urgent care.

Since I have discussed all of the specifics with our DEA agent who has jurisdiction, I prefer to continue our current practice and documentation until the league and the DEA can work this out. He has told me that he knows we are not trafficking narcotics. Sure the meds cross state lines, but they also come right back and are carefully inventoried. He is not going to demand that we stop this procedure, so why should the league?

I am sure that Tony and you have fielded a bunch of calls about this. You don't have to call me. I think what is being proposed is preposterous. I would much rather have a policy that greatly inconveniences those individuals who want to chronically consume controlled substances, rather than doing the same to our league-wide colleagues during their precious little free time with family.

That's my "two cents"

Thanks for your time.

Dan

Dan Cooper MD

Sent from my iPhone

